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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/919,193 | 08/01/2001 | Simon Smith | BAI525-455/01633 | 3977 |

7590 07/23/2008
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| EXAMINER |
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WONG, LUT

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| ART UNIT | PAPER NUMBER |
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2129

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| MAIL DATE | DELIVERY MODE |
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07/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 09/919,193 | Applicant(s) SMITH ET AL. | |
| | Examiner LUT WONG | Art Unit 2129 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is responsive to an RCE AMENDMENT entered April 16, 2008 for the patent application 09919193

The Office Action of Oct 17, 2007 is fully incorporated into this Office Action by reference.

Status of Claims

Claims 1-10 and 19 are pending. Claims 1, 6, 7, 9, 10 have been amended

Response to Arguments

Applicant's cooperation is appreciated.

In re pg. 7, the objections of claims 1, 7, and 9 have been withdrawn. However, claim 10 is remain objected because the parentheses have not been deleted.

In re pg. 7, Applicant's amendment and arguments have overcome the 112 2nd rejections of claims 1-5.

In re pgs. 12-14, Applicant's arguments with respect to 102(b) rejection of claims 1-10, 19 under online press article have been considered and persuasive. The rejection has been withdrawn. However, a request of information is made in view of the arguments. See below.

Claim Rejections - 35 USC § 102

Claims 1-10, 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al (US 7171647) as set forth in the previous office action for reason of record.

Response to Arguments

In re pg. 8-12, Applicant's 131 declarations and arguments have been fully considered but are not persuasive.

In response, 131 is used to show prior invention, not common inventorship (See MPEP 706.02). A fully executed 132 should be used to show the reference is not by "another". The rejection would be withdrawn upon receiving proper 132 declaration.

Requirement For Information - 37 C.F.R. § 1.105

Applicant and Assignee of this application are required under 37 C.F.R. 1.105 to provide the following that the Examiner has determined is reasonably necessary to the examination of this application.

The Examiner's prior art search revealed a system called "MooD" and "Witness" published by the assignee of this application in an online press maybe applied as 102(b) reference, which are not disclosed in the IDS.

In response to this requirement, please provide:

1. A copy of user's manual of MooD and "Witness" that was released prior to Aug 01, 2000 (i.e. 102(b) date).
2. Any publication describing MooD and "Witness".

This request is made in view of the prosecution history with arguments made by Applicant with prior art provided and will assist in determining whether uncovered references and commercially available products might constitute prior art against specific claims pending in the application.

The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 C.F.R. 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete reply to the requirement for that item.

The fee and certification requirements of 37 C.F.R. 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 C.F.R. 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 C.F.R. 1.105 are subject to the fee and certification requirements of 37 C.F.R. 1.97.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lut Wong whose telephone number is (571) 270-1123. The examiner can normally be reached on M-F 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent David can be reached on (571) 272-3080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lut Wong/
Patent Examiner, AU 2129

/David R Vincent/
Supervisory Patent Examiner, Art Unit 2129